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POSTAL RATE COMMISSION

5 CFR Chapter XLVI

RIN 3209–AA04, 3209–AA15 and 3211–AA00

Supplemental Standards of Ethical Conduct for Employees of the Postal Rate Commission

AGENCY: Postal Rate Commission.

ACTION: Interim rule, with request for comments.

SUMMARY: The Postal Rate Commission, with the concurrence of the Office of Government Ethics (OGE), is issuing regulations for employees of the Postal Rate Commission (Commission) that supplement the Standards of Ethical Conduct for Employees of the Executive Branch issued by OGE. The interim rule is a necessary supplement because it addresses ethical issues specific to the Commission. The supplemental rule requires Commission employees to obtain prior approval to engage in outside employment, requires them to report certain employment contacts, and prohibits them from having financial interests in or being employed by persons with certain interests in postal matters.

DATES: Interim rule effective August 12, 1993. Comments are invited and must be received on or before September 27, 1993.

ADDRESSES: Send comments to the Postal Rate Commission, Washington, D.C. 20268–0001, Attn: David L. Ruderman.

FOR FURTHER INFORMATION CONTACT: David L. Ruderman, Postal Rate Commission, Telephone (202) 789–6835, FAX (202) 789–6861.

SUPPLEMENTARY INFORMATION:

I. Background

On August 7, 1992, the Office of Government Ethics published a final rule entitled "Standards of Ethical Conduct for Employees of the Executive Branch" (Standards). See FR 35006–35067, as corrected at 57 FR 48557 (October 27, 1992) and 57 FR 53583 (November 4, 1992). The Standards, codified at 5 CFR part 2635 and effective February 3, 1993, establish uniform standards of ethical conduct that are applicable to all executive branch personnel. With the concurrence of OGE, 5 CFR 2635.105 authorizes executive branch agencies to publish agency-specific supplemental regulations that are necessary to implement an agency's ethics program. The Commission, with OGE's concurrence, has determined that the following supplemental rules are necessary to the success of its ethics program.

II. Analysis of the Regulations

The following regulations will appear in new 5 CFR chapter XLVI.

Section 5601.101 General

(a) *Purpose.* Section 5601.101(a) explains that the regulations contained in the interim rule apply to all Postal Rate Commission employees, including Commissioners, and are supplemental to the executive branch-wide Standards.

(b) *Definition of Affected Persons.* For purposes of interpreting the prohibitions on financial interests in § 5601.102 and the restrictions on outside employment in § 5601.104(a), § 5601.101(b) sets forth a definition of the phrase "a person whose interests are significantly affected by rates of postage, fees for postal services, the classification of mail, or the operations of the United States Postal Service." The definition reflects the Postal Rate Commission's long-standing interpretation of this phrase as used in the context of similar prohibitions and restrictions contained in its agency standards of conduct regulations in 39 CFR part 3000, which are being repealed and modified, in pertinent part, by the Commission in a separate rulemaking document in which a cross-reference to these new regulations is being included.

Section 5601.102 Prohibited Financial Interests

Under 5 CFR 2635.403(a) an agency may, by supplemental regulation, prohibit or restrict the holding by its employees of financial interests that the agency determines would cause a reasonable person to question the impartiality and objectivity with which its programs are administered. The Postal Rate Commission is a small agency with fewer than 100 employees whose principal functions relate to establishing postage rates and classifications. Every two to four years it conducts an omnibus rate proceeding that affects all persons significantly interested in rates and classification. In the intervening years it conducts a number of proceedings having an impact on many of these same persons In order to avoid the significant staffing problems that would be caused by disqualifying employees with affected financial interests and to ensure public confidence that rate and classification proceedings are being handled by an impartial Commission and staff, the Commission has determined that it is necessary to prohibit all of its employees from holding financial interest in companies or persons significantly affected by rates and classification, or the operations of the United States Postal Service (Postal Service). The prohibition is § 5601.102 continues in effect the prohibition that has been contained in its old agency standards of conduct regulations at 39 CFR 3000.735–302.

Section 5601.103 Notice of Disqualification While Seeking Employment

Under 5 CFR 2635.604, it is the employee's obligation to disqualify himself from participation in a particular matter that affects the financial interests of a prospective employer with whom he is seeking employment. Disqualification can be effected, in many cases, simply by not participating in the matter, although § 2635.604(c) provides that the disqualified employee should notify the person responsible for his assignment. The Commission's omnibus rate proceeding and many of its other proceedings have such a broad impact on those whose financial interests are affected by rate and classification matters that it would be difficult for any Commission employee to effectively disqualify himself from matters affecting a prospective employer without actually giving notice of his disqualification. When a Commission employee determines, in accordance with 5 CFR 2635.606, that he will not participate in a matter to which he has been assigned,

§ 5601.103 requires the employee to provide his supervisor with notice of the disqualification.

Section 5601.104 Outside Employment

(a) *Prohibited Outside Employment.* 5 CFR 2635.802 provides that an employee shall not engage in outside employment if it is prohibited by an agency supplemental regulation. To much the same effect, 5 CFR 2635.403 permits an agency, by supplemental regulation, to prohibit compensated outside employment on the same basis that it may prohibit employees from holding other financial interests. Under the Commission's previous standards of conduct regulations at 39 CFR 3000.735–307(c), Commission employees have been prohibited from engaging in outside employment, with or without compensation, with or for any person whose interests are significantly affected by postal rates, fees or classifications, or who is substantially dependent on providing property, a product, or service to the Postal Service. Section 5601.104(a) has the effect of continuing a substantially similar prohibition based on the Commission's determination that outside employment with persons in essentially those same categories would cause a reasonable person to question the impartiality with which the Commission's proceedings are conducted. As compared to old 39 CFR 3000.735–307(c), the new standard for prohibiting employment with Postal Service contractors has been reworded by virtue of the definition in § 5601.101(b) to eliminate small contractors and others whose Postal Service contracts account for a small portion of gross income.

(b) *Prior Approval for Outside Employment.* When it has determined that such a requirement is necessary or desirable for the purpose of administering its ethics program, 5 CFR 2635.803 provides that an agency may, by supplemental regulations, require its employees to obtain prior approval before engaging in outside employment. The Commission's old regulations at 39 CFR 3000.735–307(g) imposed a requirement for prior approval of outside employment. This requirement, which has been an integral part of the Commission's ethics program, is continued by the substantially identical requirement of § 5601.104(b).

(c) *Definition of Employment.* Section 5601.104(c) sets forth a definition of employment for purposes of applying the prohibitions on outside employment and the requirement for prior approval set forth respectively in paragraphs (a) and (b) of the section.

III. Matters of Regulatory Procedure

Administrative Procedure Act

The Commission has found good cause pursuant to 5 U.S.C. 553(b) for waiving, as unnecessary and contrary to the public interest, the general notice of proposed rulemaking and the 30-day delay in effectiveness as to this interim rule. The reason for this determination is that it is important to the smooth transition from the Commission's prior ethics rules to the new executive branch-wide Standards that these rulemaking actions take place as soon as possible. Furthermore, this rulemaking is related to Postal Rate Commission organization, procedure, and practice. Nonetheless, this is an interim rulemaking, with provision for a 45-day public comment period. The Postal Rate Commission will review all comments received during the comment period and will consider any modifications that appear appropriate in adopting these rules as final, with the concurrence of the Office of Government Ethics.

Regulatory Flexibility Act

The Commission has determined under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this regulation will not have a significant economic impact on a substantial number of small business entities because it affects only Federal employees.

Paperwork Reduction Act

The Commission has determined that the Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this regulation does not contain any information collection requirements that require the approval of the Office of Management and Budget.

E.O. 12291, Federal Regulation

The Commission has determined that this is not a major rule as defined in section 1 (a) and (b) of Executive Order 12291.

List of Subjects in 5 CFR Part 5601

Conflict of interests, Government employees.

Dated: August 3, 1993.

By direction of the Commission.

Charles L. Clapp,

Secretary.

Approved: August 5, 1993.

Stephen D. Potts,

Director, Office of Government Ethics.

For the reasons set forth in the preamble, the Postal Rate Commission, in concurrence with the Office of Government Ethics, is amending title 5 of the Code of Federal Regulations by adding at new chapter XLVI, consisting of part 5601, to read as follows:

CHAPTER XLVI—POSTAL RATE COMMISSION

PART 5601—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE POSTAL RATE COMMISSION

Sec.

Authority: 5 U.S.C. 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); 39 U.S.C. 3603; E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.403(a), 2635.802(a), 2635.803.

§ 5601.101 General.

(a) *Purpose.* In accordance with 5 CFR 2635.105, the regulations in this part apply to employees, including Commissioners, of the Postal Rate Commission and supplement the Standards of Ethical Conduct for Employees of the Executive Branch contained in 5 CFR part 2635.

(b) *Definition of affected persons.* For purposes of this part, a person whose interests are significantly affected by rates of postage, fees for postal services, the classification of mail or the operations of the United States Postal Service (Postal Service):

(1) Includes a company or other person:

(i) Who is or, in the past 4 years, has been a party to a proceeding before the Postal Rate Commission;

(ii) Whose primary business involves entering publications as second-class mail;

(iii) Who is in the business of selling merchandise, and a substantial portion of whose orders are solicited, received, or delivered through the mails;

(iv) Who is primarily engaged in the business of advertising through the mails;

(v) Who is primarily engaged in the business of delivering merchandise or written communications, i.e., a person whose primary business is in competition with the Postal Service; or

(vi) Who provides services or products to the Postal Service that can be expected to produce income that exceeds $100,000 and equals or exceeds 5 percent of its gross income for the current fiscal year; and

(2) Does not include a company or other person whose use of the mails is merely an incidental or a minor factor in the general conduct of its business.

§ 5601.102 Prohibited financial interests.

Any employee shall not, directly or indirectly, have any financial interest in a person whose interests are significantly affected by rates of postage, fees for postal services, the classification of mail, or the operations of the Postal Service.

§ 5601.103 Notice of disqualification when seeking employment.

An employee who has been assigned to a particular matter which affects the financial interests of a prospective employer and who is required, in accordance with 5 CFR 2635.604(a), to disqualify himself from participation in that matter shall, notwithstanding the guidance in 5 CFR 2635.604 (b) and (c), provide notice of disqualification to his supervisor upon determining that he will not participate in the matter.

§ 5601.104 Outside employment.

(a) *Prohibited outside employment.* An employee shall not engage in outside employment, either on a paid or unpaid basis, with or for a company or other person whose interests are significantly affected by rates of postage, fees for postal services, the classification of mail, or the operations of the Postal Service.

(b) *Prior approval for outside employment.* An employee who wishes to engage in outside employment, either on a paid or unpaid basis, shall obtain the prior written approval of the designated agency ethics official. A request for such approval shall be submitted in writing with sufficient description of the employment to enable the designated agency ethics official to give approval based on a determination that the outside employment is not expected to involve conduct prohibited by statute or Federal regulation, including paragraph (a) of this section and 5 CFR part 2635.

(c) *Definition of employment.* For purposes of this section employment means any form of non-Federal employment or business relationship involving the provision of personal services by the employee. It includes but is not limited to personal services as an officer, director, employee, agent, attorney, consultant, contractor, general partner or trustee. Employment does not include participation in the activities of a nonprofit charitable, religious, professional, social, fraternal, educational, recreational, public service or civic organizations unless such activities involve the practice of a profession within the meaning of 5 CFR 2636.305(b)(1), including the giving of professional advice, or are for compensation other than reimbursement of expenses.

[FR Doc. 93–19331 Filed 8–11–93; 8:45 am]
BILLING CODE 7710–FW–M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

[Docket No. 93–009F]

Revision of Delegations of Authority

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document amends the delegations of authority from the Secretary of Agriculture and General Officers of the Department to delegate to the Assistant Secretary for Marketing and Inspection Services and the Administrator, Food Safety and Inspection Service, the authority to administer and conduct a research program on matters affecting food safety and the authority to enter into contracts, grants, and cooperative agreements to further agricultural research activities.

EFFECTIVE DATE: August 12, 1993.

FOR FURTHER INFORMATION CONTACT: Ralph Stafko, Director, Policy Office, Food Safety and Inspection Service, USDA, room 3812, South Building, Washington, DC 20250, (202) 720–8168.

SUPPLEMENTARY INFORMATION: This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required, and this rule may be made effective less than 30 days after publication in the **Federal Register**.

Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order Nos. 12291 and 12778. Finally, this action is not a rule as defined by Pub. L. No. 96–354, the Regulatory Flexibility Act, and, thus, is exempt from its provisions.

List of Subjects in 7 CFR Part 2

Authority Delegations (Government agencies).

Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended as follows:

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

1. The authority citation for Part 2 continues to read as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953.

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small Community and Rural Development, and Assistant Secretaries

2. Section 2.17 is amended by adding new paragraphs (g)(3) and (g)(4) to read as follows:

§ 2.17 Assistant Secretary for Marketing and Inspection Services.

* * * * *

(g) * * *

(3) Administer and conduct a food safety research program (7 U.S.C. 427).

(4) Enter into contracts, grants, or cooperative agreements to further research programs in the agricultural sciences (7 U.S.C. 3318).

* * * * *

Subpart F—Delegations of Authority by the Assistant Secretary for Marketing and Inspection Services

3. Section 2.55 is amended by revising the section heading and paragraph (a)(5) and adding (a)(6) to read as follows:

§ 2.55 Administrator, Food Safety and Inspection Service.

(a) * * *

(5) Administer and conduct a food safety research program (7 U.S.C. 427).

(6) Enter into contracts, grants, or cooperative agreements to further research programs in the agricultural sciences (7 U.S.C. 3318).

* * * * *

Done at Washington, DC, on: August 5, 1993.

For Subpart C:

Mike Espy,

Secretary of Agriculture.

For Subpart F: August 5, 1993.

Eugene Branstool,

Assistant Secretary for Marketing and Inspection Services.

[FR Doc. 93–19271 Filed 8–11–93; 8:45 am]
BILLING CODE 3410–01–M

Commodity Credit Corporation

7 CFR Part 1427

RIN 0560–AD29

Upland Cotton User Marketing Certificate Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim rule.

SUMMARY: This interim rule amends the regulations to: Revise the formula for determining liquidated damages when shipment of cotton on an original export contract or on a replacement contract is not completed, or when a replacement contract is not designated by the exporter within an established timeframe; revise the procedure for establishing the payment rate for U.S. upland cotton shipped under an optional origin contract; and further outline documentation requirements to support relief requests for export contract cancellations, contract amendments, or any failure to export deemed beyond the control of the exporter. These actions are authorized by section 103B of the Agricultural Act of 1949, as amended (1949 Act).

DATES: Effective August 12, 1993, comments must be received on or before September 13, 1993, in order to be assured of consideration.

ADDRESSES: Submit comments to: Director, Fibers and Rice Analysis Division (FRAD), Agricultural Stabilization and Conservation Service (ASCS), United States Department of Agriculture (USDA), room 3754–S, P.O. Box 2415, Washington, DC 20013–2415.

FOR FURTHER INFORMATION CONTACT: Janise Zygmont, FRAD, ASCS, USDA, room 3754–S, P.O. Box 2415, Washington, DC 20013–2415 or call 202–720–6734.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Departmental Regulation 1512–1

This rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and provisions of Departmental Regulation 1512–1 and has been classified as "nonmajor." It has been determined that the provisions of this interim rule will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, State, or local governments or geographical regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of these determinations.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will not have a significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are: Cotton Production Stabilization—10.052.

Executive Order 12778

This interim rule has been reviewed in accordance with Executive Order 12778. The provisions of the interim rule do not preempt State laws, are not retroactive, and do not involve administrative appeals.

Executive Order 12372

This program/activity is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Paperwork Reduction Act

The information collection requirements contained in the current regulations at 7 CFR 1427.100 have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 through July 31, 1995, and assigned OMB No. 0560–0136. The amendments to 7 CFR part 1427.100 set forth in this interim rule contain information collections that require clearance by OMB under the provisions of 44 U.S.C. chapter 35. The information collection package has been submitted to OMB for review.

Background

When the user marketing certificate program was first established, safeguards were introduced to prevent the shifting of export sales from weeks with low payment rates to weeks with higher payment rates. It has come to the attention of CCC that, despite these safeguards, some high-rate contracts have been retained while lower-rate contracts have been canceled. Shortcomings in the current regulations have been identified with regard to liquidated damages for non-shipment, payment rates for cotton shipped under optional origin contracts, and documentation required to support relief requests for export contract cancellations, contract amendments, or any failure to export deemed beyond the exporter's control. In mid-April, an amendment to the agreement and amended instructions were sent to domestic users and exporters who currently participate in the user marketing certificate program. The amended agreements and instructions became effective on April 22 and reflect the changes contained in this interim rule.

Discussion of Changes

Sections 1427.107(d) and 1427.109(c) are amended to revise the formula used to determine liquidated damages if shipment of cotton is not completed or a replacement contract is not designated by the exporter by December 31. Under current rules, liquidated damages are determined by multiplying the quantity of cotton not shipped by the amount that the highest payment rate paid to the exporter between the date of the original contract and December 31 exceeds the original contract rate or, for replacement contracts, the payment rate in effect on the date of the replacement contract. This inadvertently results in zero liquidated damages for non-shipment of cotton under contracts made at the highest payment rate for the period.

The revised rules eliminate a situation whereby liquidated damages are zero. Liquidated damages will be determined by multiplying the quantity of cotton not shipped by the higher of: (1) The difference between the highest payment rate paid to, or earned by, the exporter—regardless of whether the highest payment rate is a current or forward-crop payment rate—between the date of the original contract and December 31 of the year in which the original contract shipment period ends and the original contract payment rate; or (2) 50 percent of the original contract payment rate. Similarly, liquidated damages for replacement contracts are based on the quantity of cotton not shipped multiplied by the higher of: (1) The difference between the highest payment rate paid to, or earned by, the exporter and the replacement contract payment rate; or (2) 50 percent of the original contract payment rate.

Section 1427.107(e) is added to change the determination of payment rates applicable for U.S. cotton shipped under optional origin contracts. Under current rules, exporters are eligible to receive payments on optional origin contracts if U.S. cotton is shipped. Payments are based on the payment rate

in effect on the date of the original optional origin contract. Although exporters who ship foreign cotton on an optional origin contract do not receive payments on that cotton, their obligation to ship under the user marketing certificate program is thereby fulfilled, and a replacement contract is not required.

This policy allows exporters to lock in a payment rate on an optional origin contract and, if a higher payment rate occurs later, to ship foreign cotton on the lower rate and U.S. cotton on the higher rate. Since only exporters who trade in both foreign and U.S. cotton make optional origin contracts, the current rules give them an advantage over exporters who ship only U.S. cotton. The revised rule would establish the payment rate for optional origin contracts at the lower of: (1) the payment rate in effect when the original optional origin contract was made; or (2) the payment rate in effect on the date of the written notification which is submitted to CCC stating that the cotton shipped is of U.S. origin.

Revisions to penalty provisions for non-shipment of cotton will improve exporter accountability without compromising the objectives of the user marketing certificate program. Changing the way in which payment rates are determined for U.S. cotton shipped on an optional origin contract will eliminate any advantage to exporters who trade in both foreign and U.S. cotton vis-a-vis exporters who ship only U.S. cotton. These changes should result in a more accurate indication of the potential level of U.S. cotton exports and the competitiveness of U.S. upland cotton in world markets.

Section 1427.109(e) is amended to require that documentation be submitted to CCC as evidence that an export contract cancellation, amendment or failure to export is beyond the control of the exporter. Requests for relief from making a replacement contract will be examined by CCC on a case-by-case basis. Further clarification of documentation required to support relief requests will improve the efficiency of CCC operations.

Interested persons are invited to submit written comments on the interim rule changes. Comments must be received by September 13, 1993, in order to be assured of consideration.

List of Subjects in 7 CFR Part 1427

Cotton, Loan programs/agriculture, Packaging and containers, Price support programs, Reporting and recordkeeping requirements, Surety bonds, Warehouses.

Accordingly, 7 CFR part 1427 is amended as follows:

PART 1427—COTTON

1. The authority citation for 7 CFR part 1427 continues to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1425, 1444, and 1444–2; 15 U.S.C. 714b and 714c.

2. Section 1427.107 is amended by:

A. Revising paragraph (d)(3),

B. Redesignating paragraphs (e) and (f) as paragraphs (f) and (g) respectively, and

C. Adding a new paragraph (e) to read as follows:

§ 1427.107 Payment rate.

* * * * *

(d) * * *

(3) If shipment is not completed by December 31 of such year, the exporter shall pay liquidated damages to CCC in an amount determined by multiplying the quantity of cotton not shipped by the higher of:

(i) The difference between the highest payment rate paid to, or earned by, the exporter between the date the original contract was entered into and December 31 of the year in which the original contract shipment period ends, regardless of whether the highest payment rate paid to, or earned by, the exporter was a current or forward-crop payment rate, and the original contract payment rate or, if a replacement contract has been made, the replacement contract payment rate, or

(ii) 50 percent of the original contract payment rate.

(e) For U.S. cotton sold by the exporter under an optional origin contract, the payment rate shall not be established until the exporter notifies CCC in writing that the cotton shipped or to be shipped was or will be of United States origin. Upon receipt of such notification, CCC will establish the payment rate for cotton shipped under such contract at the lower of:

(1) The payment rate in effect when the optional origin contract was made, or

(2) The payment rate in effect on the date of the written notification which is submitted to CCC stating that the cotton shipped, or to be shipped, under such contract was, or shall be, of United States origin.

* * * * *

3. Section 1427.109 is amended by:

A. Revising paragraph (c)(3), and

B. Revising paragraph (e) to read as follows:

§ 1427.109 Contract cancellations.

* * * * *

(c) * * *

(3) Not completed, or a replacement contract is not designated by the exporter by December 31, the exporter shall pay liquidated damages to CCC in an amount determined by multiplying the quantity of cotton not shipped by the higher of:

(i) The difference between the highest payment rate paid to, or earned by, the exporter between the date the original contract was entered into and December 31 of the year in which the original contract shipment period ends, regardless of whether the highest payment rate paid to, or earned by, the exporter was a current or forward-crop payment rate, and the payment rate determined in accordance with paragraph (b) of this section, or

(ii) 50 percent of the original contract payment rate.

* * * * *

(e) The provisions of paragraphs (a) through (d) of this section will not apply if CCC determines, based upon written evidence provided by the exporter, that a contract cancellation, amendment, or failure to export is due to reasons beyond the control of the exporter. If, as determined by CCC, the cancellation is beyond the control of the exporter, replacement contracts are not required, and the assessment of liquidated damages by CCC is waived. Documentation to support that contract cancellations are beyond the control of the exporter must be submitted to CCC. Requests for relief from naming a replacement contract will be examined by CCC on a case-by-case basis to determine if relief is warranted.

Signed at Washington, DC, on July 1, 1993.

Bruce R. Weber,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 93–19428 Filed 8–11–93; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 101, 103, 204, 205, and 245

[INS No. 1424–92]

RIN 1115–AC48

Special Immigrant Status; Certain Aliens Declared Dependent on a Juvenile Court; Revocation of Approval of Petitions; Bona Fide Marriage Exemption to Marriage Fraud Amendments; Adjustment of Status

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule implements section 153 of the Immigration Act of 1990 (IMMACT 90) by providing a procedure for classification of certain aliens as special immigrants who have been declared dependent on a juvenile court in the United States. This rule also implements section 302(d)(2) of the Miscellaneous and Technical Immigration and Nationality Amendments of 1991 (Technical Amendments) by providing for the adjustment of status to that of lawful permanent resident for aliens classified as special immigrants who have been declared dependent on a juvenile court in the United States. In addition, the rule implements section 702 of IMMACT 90, which became effective November 29, 1990, by finalizing procedures for appeals of denials of adjustment of status where the denial was based solely on failure to establish eligibility for the bona fide marriage exemption contained in section 245(e)(3) of the Immigration and Nationality Act (the Act), as amended. This rule alleviates hardships experienced by some dependents of United States juvenile courts by providing qualified aliens with the opportunity to apply for special immigrant classification and lawful permanent resident status, with possibility of becoming citizens of the United States in the future. It also ensures that persons whose applications for adjustment of status were denied because of failure to establish eligibility for the bona fide marriage exemption are able to exercise the appeal rights provided by law.

EFFECTIVE DATE: August 12, 1993.

FOR FURTHER INFORMATION CONTACT: Rita A. Boie, Senior Immigration Examiner, Adjudications Branch, Immigration and Naturalization Service, 425 I Street, NW., room 7223, Washington, DC 20536, Telephone (202) 514–5014.

SUPPLEMENTARY INFORMATION:

Background

Although many dependent alien juveniles were eligible for the legalization provisions of the Immigration Reform and Control Act of 1986 (IRCA), those benefits were only available for a limited period of time to certain aliens who had been in the United States since before 1982. No method existed for most court-dependent juvenile aliens to regularize their immigration status and become lawful permanent residents of this country, even though a United States juvenile court had found them dependent upon the court and eligible for long-term foster care, and it had been determined that it was not in the children's best interests to be returned to their home countries or the home countries of their parents. Section 153 of IMMACT 90 provides that certain aliens who have been declared dependent on juvenile courts located in the United States may be eligible for special immigrant classification. Aliens who are classifiable as special immigrants may apply for immigrant visa issuance abroad or adjustment of status to that of a lawful permanent resident within the United States. After adjustment of status or admission with an immigrant visa, they may live and work in the United States indefinitely and may apply to become United States citizens in the future.

Section 153 of IMMACT 90, as originally enacted, did not relieve special immigrant juvenile court dependents from compliance with any of the statutory requirements for immigrant visa issuance abroad or adjustment of status within the United States, even though it exempted them from deportation under several provisions of section 241 of the Act. A significant number of aliens eligible for classification as special immigrant juvenile court dependents were ineligible to become lawful permanent residents because they could not meet the statutory requirements for immigrant visa issuance or for adjustment of status.

Persons seeking immigrant visa issuance abroad are normally required to show that they are not excludable from the United States under the exclusion grounds enumerated in section 212(a) of the Act. These grounds include prohibitions against the admission of aliens who are likely to become public charges in the United States or who seek to enter the United States for the purpose of performing labor without a certification issued by the Department of Labor showing that there are not sufficient United States workers in the alien's field at the intended job location. Many juvenile court dependents could not meet these requirements and were, therefore, unable to obtain an immigrant visa even though they were eligible for classification as special immigrant juveniles.

Persons applying for adjustment of status within the United States must also show that they are not excludable under section 212(a) of the Act. In addition, they must meet the adjustment of status requirements of section 245 of the Act. Section 245(a) of the Act requires that adjustment of status applicants show that they entered the United States only after having been inspected and admitted or paroled by an immigration officer. Many juvenile court dependents were unable to satisfy this requirement. Those who had been inspected and admitted or paroled were frequently ineligible for adjustment because they fell within the provisions of section 245(c) of the Act. This section prohibits the adjustment of status of preference immigrants who have been employed without authorization, are not in lawful nonimmigrant status at the time the application for adjustment is filed, or have failed to continuously maintain lawful nonimmigrant status in the past.

Although a person who cannot meet the special adjustment of status requirements of section 245 of the Act may still be eligible for immigrant visa issuance abroad, travel outside the United States presents unique problems for a large number of juvenile court dependents. Financial and documentary difficulties, and certain legal complications which may result from travel outside the area of the court's jurisdiction or outside the United States, combine to form and almost insurmountable barrier to travel abroad for many of these juveniles.

The Technical Amendments, enacted December 12, 1991, reduced or eliminated the obstacles facing most special immigrant juvenile court dependents wishing to become lawful permanent residents. Section 302(d)(2) of that law provides that special immigrant juveniles classifiable under section 101(a)(27)(J) of the Act are not subject to exclusion provisions restricting the admission of aliens who are likely to become public charges, aliens without labor certifications, and aliens who entered the United States without proper documents. It also allows waivers of most other exclusion provisions to be approved on an individual basis for humanitarian purposes, family unity, or when the approval of a waiver is otherwise in the public interest; however, the relationship between the alien and the alien's natural parents or prior adoptive parents will not be a factor in a discretionary waiver determination. The exclusion provision concerning simple possession of 30 grams or less of marijuana may be waived. However, other controlled substance violations, criminal exclusion grounds under sections 212(a)(2) (A), (B), and (C) of the Act, and certain exclusion provisions involving security and related issues under 212(a)(3) (A), (B), (C), and (E) of the Act may not be waived.

Section 302(d)(2) of the Technical Amendments also modifies section 245

of the Act by adding a new subsection 245(h). This new subsection permits most special immigrant juveniles to become lawful permanent residents regardless of the method of original entry into the United States, unauthorized employment, or failure to maintain lawful nonimmigrant status. It provides that all special immigrant juveniles classifiable under section 101(a)(27)(J) of the Act shall be deemed, for the purposes of section 245(a) of the Act, to have been paroled into the United States and exempts them from compliance with any of the requirements of section 245(c) of the Act.

Section 302(d)(2) of the Technical Amendments also seeks to minimize abuse of these generous benefits by restricting the admission of aliens arriving in the United States for the purpose of taking advantage of this means of gaining lawful permanent resident status. It provides that neither section 101(a)(27)(J) of the Act nor section 245(h) of the Act shall be construed as authorizing an alien to apply for admission or be admitted to the United States in order to obtain special immigrant status under section 101(a)(27)(J) of the Act.

The Immigration Marriage Fraud Amendments of 1986 (IMFA), enacted November 10, 1986, made several changes to the Act which were designed to reduce the incentive for an alien to enter into a marriage with a United States citizen or lawful permanent resident for the sole purpose of obtaining immigration benefits. Section 5(a)(2) of IMFA provided that an adjustment of status application could not be approved when the adjustment was based upon a marriage that had been entered into on or after November 10, 1986, and while the alien was in deportation or exclusion proceedings, unless the alien had resided outside the United States for two or more years following the marriage. Section 702 of IMMACT 90 amends this requirement to provide that an applicant who can show, by clear and convincing evidence, that the marriage was bona fide may be exempted from compliance with this requirement. It also provides a single level of administrative appellate review for denials of requests for the exemption.

On May 21, 1991, at 56 FR 23207–23209, the Immigration and Naturalization Service (the Service) published an interim rule with request for comments in the Federal Register. The rule established a procedure for classification of certain juvenile court dependents as special immigrants under section 101(a)(27)(J) of the Act. The interim rule also described appeal rights in adjustment of status cases where the denial was based upon failure to qualify for the bona fide marriage exemption contained in section 245(e) of the Act. The interim rule became effective on May 21, 1991. Interested persons were invited to submit written comments on or before June 20, 1991. The Service received 38 comments relating to the rule.

Interim Rule

The interim rule implemented section 153 of IMMACT 90 by establishing a procedure for classification of certain aliens who have been declared dependent on a juvenile court in the United States as special immigrants. The rule also implemented section 702 of IMMACT 90 by providing a method through which the applicant could appeal the denial of an application for adjustment of status where the denial was based solely on failure to establish eligibility for the bona fide marriage exemption contained in section 245(e) of the Act.

Comments

The discussion that follows summarizes the issues which have been raised relating to the interim rule, provides the Service's position on the issues, and indicates the revisions adopted in the final rule. The discussion also summarizes technical changes mandated by section 302(d)(2) of the Technical Amendments, which statutorily exempt qualified special immigrant juveniles from meeting certain admissibility and adjustment of status requirements.

Redesignation of 8 CFR 101.6 as 8 CFR 204.11.

Section 162 of IMMACT 90 mandates the filing of petitions for all principal special immigrants. Regulations governing the filing of petitions for immediate relative, family sponsored, and employment-based immigrant classifications are found in 8 CFR part 204. The Service has determined that both the general public and Service employees will find the regulations easier to access if regulations concerning all types of petitions for immigrant classification are included in 8 CFR part 204. The Service has therefore determined that the regulations implementing the provisions of section 153 of IMMACT 90 should be removed from 8 CFR 101.6 and added to 8 CFR 204.11. This redesignation also mandates a technical modification to 8 CFR 103.1(f)(2)(xxxv), which provides for appellate review of denials of petitions for special immigrant juveniles. The technical change is necessary because petitions for special immigrant juveniles will now be approved under 8 CFR part 204 rather than 8 CFR part 101. The petitioner's right to appeal a denial of a petition for a special immigrant juvenile to the Associate Commissioner, Examinations has not been changed.

Appeals of Denials of Adjustment of Status Applications Based Upon Marriage Entered Into During Deportation or Exclusion Proceedings

Two commenters stated that they felt the appeal provision was unnecessary. These commenters further stated that they felt that the issue of whether a marriage was bona fide should not be reviewed during adjustment of status proceedings.

Adjustment of status applications based upon marriages subject to the two-year foreign residence requirement of section 245(e) of the Act require the filing of a visa petition. Before action is taken upon the visa petition, the Service officer adjudicating the case is required to determine whether clear and convincing evidence of a bona fide marriage has been provided. Therefore, this issue will normally be resolved in visa petition proceedings. However, the Service is not precluded from reviewing the issue of whether the marriage is bona fide during adjustment of status proceedings, despite the existence of an approved visa petition. Section 702 of IMMACT 90 provides that there shall be only one level of administrative appellate review for denials of adjustment of status applications pursuant to section 245(e) of the Act. Since no administrative review of denials of applications for adjustment of status previously existed (such denials were not appealable, although the applicant had the option of renewing the request in deportation proceedings before an immigration judge), the rule established this statutorily directed administrative review process. Accordingly, the rule has not been changed.

Definition of Long-term Foster Care

Twenty-five commenters urged the Service to amend the definition of long-term foster care to encompass situations in which adoption or guardianship is deemed to be in the juvenile's best interest. Twenty commenters recommended that the Service adopt the definition of long-term foster care contained in the Social Security Act. Some commenters also suggested that the Service modify the rule to recognize administrative determinations regarding eligibility for long-term foster care.

The final rule removes the regulatory definition of "long-term foster care" and substitutes a definition of "eligible for long-term foster care." The new definition adopts commenters' recommendations that eligibility for long-term foster care be established when a juvenile court determines that reunification with the natural parent(s) or the prior adoptive parent(s) is no longer a viable option for the child. The new definition also allows juveniles to qualify for special immigrant status when guardianship or adoption is deemed to be in the juvenile's best interest after the alien is found to be dependent upon the juvenile court. Section 153 of IMMACT 90 states that the decision regarding eligibility for long-term foster care must have been made in judicial proceedings. Therefore, this rule continues to recognize only judicial decisions concerning eligibility for long-term foster care.

Form I–360

Several commenters stated that they were pleased that the rule allows any person to file the petition on behalf of the juvenile.

Many also applauded the Service's decision to clearly state that the petitioner need not be a citizen or a lawful permanent resident of the United States. No commenters opposed these provisions. One commenter stated that he found the I–360 form somewhat confusing to use for a dependent juvenile, but that he understood the form was being revised. No commenters objected to the use of this form.

The Service has developed a revised Form I–360, Petition for Amerasian, Widow(er) or Special Immigrant. The revised form is now available for use by the public and contains specific instructions for persons seeking to establish eligibility for special immigrant juvenile status. The revised form will be amended as soon as possible to reflect changes made by this rule. Questions concerning completion of the form may be directed to local immigration offices.

Fee Waivers

One commenter asked that fees be waived for certain applicants.

8 CFR 103.7(c) contains a fee waiver provision applicable to fees for applications, petitions, appeals, motions, or requests. Requests for fee waivers must be made and considered on a case-by-case basis.

Eligibility—Alien Required To Be Juvenile Under State Law

Twenty-six commenters recommended that the requirement that the beneficiary be a juvenile under state law be modified or eliminated. Several commenters pointed out that definitions of the terms "juvenile," "minor," and "child" vary from state to state. They also noted that different definitions may be used in various proceedings within one state and that some states have no legal definition of some or all of these terms, making compliance with the interim rule's eligibility requirements problematic. Some felt that the differences between the laws of various states would cause confusion. Some expressed concerns about the possibility that an alien in one state would be eligible for the benefit, while an alien in substantially identical circumstances living in another state would not be eligible. Others felt that the requirement was unnecessary, since the juvenile court would be required to determine eligibility for juvenile status prior to finding an individual dependent upon the court. Some also observed that section 153 of IMMACT 90 does not explicitly restrict special immigrant status to juveniles. Many also cited state laws allowing a juvenile court to retain jurisdiction over certain individuals, such as students, who have reached the age of majority but require continued court protection. These commenters suggested the regulation be amended to include these dependent young adults.

Despite commenters' concerns about confusion caused by differences between the laws of the various states, the Service believes that certain inequities caused by variations in state law are unavoidable in determining eligibility for the benefits of section 153 of IMMACT 90. Juvenile court issues are under the jurisdiction of the states and therefore dependent upon state statutes. However, in order to minimize confusion caused by dissimilar state laws, the Service has removed the requirement that the beneficiary be a juvenile under state law and replaced it with a requirement that the beneficiary be under twenty-one years of age. The new requirement establishes a consistent countrywide definition of the age at which an alien will no longer be eligible for special immigrant juvenile status. Although the language of the statute does not expressly restrict benefits to juveniles, the Service notes it does not specifically include aliens of any age who at some point in the past, regardless of how distant, had been declared dependent upon a juvenile court in the United States and found eligible for long-term foster care. The revised standard allows students and other young persons who continue to be dependent upon the juvenile court after reaching the age of eighteen to qualify for special immigrant juvenile status. This requirement also conforms with the definition of "child" contained in section 101(b)(1) of the Act. This rule does, however, allow exemptions to both the eligibility requirements and the automatic revocation provisions for those aliens who can establish that they met the eligibility criteria on November 29, 1990, and whose petitions for classification as special immigrant juveniles are filed before June 1, 1994.

Eligibility—Alien Required To Be Unmarried

Twenty-three commenters encouraged the Service to delete the requirement that the alien be unmarried. Most stated they felt this requirement should be eliminated because the beneficiary's marital status is not addressed by section 153 of IMMACT 90. Some commenters objected to this requirement because prospective beneficiaries had not received prior notice that marriage could make them ineligible for special immigrant juvenile status. Some also indicated that they felt the decision as to whether a married individual could be dependent upon the juvenile court should be made only by the juvenile court. One commenter pointed out that this requirement would disproportionately affect female juveniles, because they are more frequently coerced into marriages by unscrupulous adults or social pressures.

As indicated in the supplementary information to the interim rule, the Service believes that marriage alters the dependent relationship with the juvenile court. No commenters indicated that they believed that the marriage of a dependent juvenile would not affect the juvenile's dependency upon the court. Section 153 of IMMACT 90, in contrast to most other immigrant and special immigrant provisions, extends no benefits to spouses, indicating that Congress did not envision married persons as dependent juveniles. This requirement also conforms with the definition of child contained in section 101(b)(1) of the Act, which requires that children be unmarried. The term "unmarried" is defined in section 101(a)(39) of the Act. That section defines an unmarried person as a person who is not currently married, whether or not previously married. Therefore, a person who had been coerced or who had improvidently entered into a marriage would not be permanently ineligible for special immigrant juvenile status. After legal termination of a marriage by annulment, divorce, or through the death of the spouse, an individual is regarded by the

Service as "unmarried" and could be eligible to seek special immigrant juvenile status, provided he or she meets the other statutory and regulatory requirements for the classification. The rule has, however, been modified to allow an alien who can establish that he or she met the eligibility criteria on November 29, 1990, to apply for this benefit, provided that a petition for classification as a special immigrant juvenile is filed no later than June 1, 1994.

Best Interest of the Child

The Service received two written comments and several telephonic inquiries indicating that some confusion existed regarding the type of administrative proceeding in which this determination may be made. Two commenters expressed concern about the Service's ability to make this determination in deportation proceedings or other administrative immigration hearings. Another commenter urged the Service to reduce possible abuse of this benefit by narrowly defining the elements which could be considered in determining the best interest of the alien child. This commenter recommended that the Service rewrite the eligibility criteria to exclude children who were brought or sent to the United States to take advantage of the special immigrant juvenile provision. This commenter also recommended that juvenile courts be required to request and obtain a report from the Service prior to declaring an alien child dependent upon the court.

The final rule states that the decision concerning the best interest of the child may only be made by the juvenile court or in administrative proceedings authorized or recognized by the juvenile court. Such administrative proceedings would most commonly be conducted by state or local social service agency officials. The Service does not intend to make determinations in the course of deportation proceedings regarding the "best interest" of a child for the purpose of establishing eligibility for special immigrant juvenile classification. The rule does not contain any restrictions on factors which may be considered in determining the best interest of the child. The Service believes that it would be both impractical and inappropriate for the Service to routinely readjudicate judicial or social service agency administrative determinations as to the juvenile's best interest. Abuse of this provision is of concern both to Congress, as shown by the statutory restriction on the grant of future immigration benefits for the juvenile's parent(s) based upon the relationship, and to the Service. However, the Service believes that a child in need of the care and protection of the juvenile court should not be precluded from obtaining special immigrant status because of the actions of an irresponsible parent or other adult. The Service also believes it would be impractical and inappropriate to impose consultation requirements upon the juvenile courts or the social service system, especially requirements which could possibly delay action urgently needed to ensure proper care for dependent children.

Eligibility—"Grandfather" Provision

Twenty-nine commenters urged the Service to establish a regulatory provision which would allow aliens who were eligible for special immigrant juvenile classification on November 29, 1990, the date of enactment of IMMACT 90, but who could not become lawful permanent residents at that time, to remain eligible for this classification until Congress took action to amend the adjustment of status provisions of the Act. One commenter cited the "grandfather" provision of section 702 of IMMACT 90 as an example the Service should follow in implementing section 153.

As originally enacted, IMMACT 90 did not exempt special immigrant juvenile aliens from the normal statutory requirements for adjustment of status. The Service did not, however, wish to unnecessarily preclude otherwise qualified special immigrant juvenile aliens from becoming lawful permanent residents. On November 29, 1990, the date of enactment of IMMACT 90, the Service directed its local offices to accept and hold in abeyance applications for adjustment of status filed by persons who appeared to meet the statutory requirements for the special immigrant juvenile classification of section 153 of IMMACT 90. Further guidance was issued on August 16, 1991, directing local offices to accept applications for adjustment of status filed by special immigrant juveniles despite statutory ineligibility for adjustment of status because of the provisions of sections 245 (a) or (c) of the Act. The local offices were again instructed not to take action to deny these adjustment of status applications solely because the special immigrant juvenile was statutorily ineligible for adjustment of status. On December 12, 1991, section 302(d)(2) of the Technical Amendments amended the adjustment of status provisions of the Act to exempt special immigrant juveniles from many of the statutory requirements for adjustment of status. In furtherance of Service policy of using administrative discretionary authority to ensure that special immigrant juveniles are not precluded from obtaining lawful permanent residence because of the passage of time while the Service was awaiting Congressional action to amend the adjustment of status provisions, this rule allows exemptions to both the eligibility requirements and the automatic revocation provisions for those aliens who can establish that they met the eligibility criteria on November 29, 1990, and whose petitions for classification as special immigrant juveniles are filed before June 1, 1994.

Documentary Requirements

Twenty-one commenters stated that they felt the documentary requirements were either confusing or excessive. Some stated that they felt it should not be necessary to submit a total of four documents to establish eligibility. Several stated that the juvenile court could declare an individual eligible for long-term foster care only after finding the person dependent upon the court and only after alternatives to a long-term placement were considered. These commenters stated that they felt that evidence of a declaration of eligibility for long-term foster care should satisfy not only that requirement, but also the evidentiary requirements relating to dependency and the determination regarding the "best interest" of the child.

The rule has been revised to clearly require documentary evidence of the beneficiary's age. The evidence may be in the form of a birth certificate, passport, or official foreign identity card such as a Cedula or Cartilla. This rule also provides that the director may, in his or her discretion, accept other documents which reasonably establish the beneficiary's age. The final rule has also been revised to state that, in addition to evidence of the beneficiary's age, one or more documents must be submitted showing dependency, eligibility for long-term foster care, and the "best interest" determination. The Service has left in place, however, the requirement that the document(s) must show that all three statutory criteria have been met. In view of diverse state laws governing juvenile court proceedings and the possibility that state laws could change in the future, the Service does not believe that any of the section 153 statutory requirements can be ignored. The Service also notes that consideration of alternatives to long-term foster care does not, in itself, show that a determination was made that it is in the juvenile's best interest not to be returned to his or her country of nationality or habitual residence of

his or her parents. The court's finding that long-term foster care is the best alternative available to the child within the United States does not necessarily establish that long-term foster care in another country would not be available or would not be in the child's best interest.

Revocation of Approval

Twenty-four commenters asked the Service to revise or eliminate provisions of the interim rule which automatically revoke the approval of a petition for a special immigrant juvenile under certain circumstances. Most commenters cited state laws which allow a juvenile court to retain jurisdiction over certain individuals, such as students, who have reached the age of majority but continue to require court protection. They suggested amending the rule to eliminate the automatic revocation of petitions for these young people. Many commenters also expressed concern that the rule would allow the automatic revocation of a petition when the juvenile is placed in a guardianship situation or has been adopted. Some stated they felt that approval should not be revoked simply because a beneficiary's circumstances change while the Service is reviewing an application for adjustment of status. One commenter felt that the rule should indicate that any subsequent decision regarding the best interest of the child should be made only by the juvenile court which made the initial ruling.

This rule removes the provision automatically revoking approval of a petition for special immigrant juvenile status when the alien ceases to be a juvenile under state law, and substitutes a provision establishing automatic revocation of an earlier approval when the beneficiary reaches the age of twenty-one. The rule has also been revised to state that changes in circumstances resulting from adoption or placement in a guardianship situation will not result in revocation of approval. In response to comments that the Service should not revoke approval of the petition simply because the beneficiary's circumstances change during the application process, the Service notes that other applicants for permanent residency are required to continue to maintain eligibility for their visa classification until admission with an immigrant visa or adjustment of status. The Service does not believe that there is good reason to exempt special immigrant juveniles from this requirement. The final rule also clearly states that the decision regarding the beneficiary's best interest must be made by a juvenile court of competent jurisdiction or in administrative proceedings recognized by the juvenile court having jurisdiction over the beneficiary. As indicated earlier, the Service believes that the decision regarding the best interest of the beneficiary should be made by the juvenile court or the social service agency officials recognized by the juvenile court, not by the immigration judge or other immigration officials. The final rule does not, however, require the decision to be made by the court which made the initial determination, since the Service believes this would be an unnecessary infringement upon the juvenile court system's ability to make determinations regarding its own jurisdictional issues.

Regulations governing the revocation of approval of petitions for immigrant classification are found in 8 CFR part 205. The Service has determined that both the public and Service employees will find the regulations easier to access if regulations concerning the revocation of all types of petitions for immigrant classification are included in 8 CFR part 205. The Service has, therefore, removed procedures relating to the automatic revocation of approval of petitions for classification as a special immigrant juvenile from 8 CFR 101.6(f) and placed them in 8 CFR 205.1.

This rule also changes several references to sections of the Act in 8 CFR part 205. The reference changes are necessary because IMMACT 90 redesignated many sections of the Act.

This rule also removes 8 CFR 205.1(a)(10). That paragraph provided that the approval of a spousal immigrant visa petition based upon a marriage entered into while the beneficiary was under deportation or exclusion proceedings would be automatically revoked unless the beneficiary had resided outside the United States for at least two years in accordance with former section 204(h) (currently 204(g)) of the Act. Section 702 of IMMACT provides an exemption from the two-year foreign residence requirement if the petitioner can establish, by clear and convincing evidence, that the marriage is bona fide. Therefore, the automatic revocation provision is no longer appropriate and is removed. The Service's authority to revoke the approval of any petition under section 204 of the Act after notice to the petitioner, which is contained in 8 CFR 205.2, has not been changed and continues to be applicable to spousal immigrant visa petitions.

This rule also removes 8 CFR 205.1(c)(4), which provided for automatic revocation of a sixth preference petition when the petitioner filed a written notice of withdrawal. The preceding paragraph, which formerly referred only to third preference petitions, has been revised to encompass all instances in which the petitioner in an employment-based case files a written notice of withdrawal with any officer of the Service who is authorized to grant or deny petitions. There is, therefore, no need to repeat the provision in the following paragraph.

In 8 CFR 205.2(a) the reference to "§ 204.1" is changed to "§ 205.1" to correct a typographical error.

Adjustment of Status

Twenty-eight commenters expressed concern about the method through which a special immigrant juvenile could become a lawful permanent resident. One commenter asked whether a special immigrant juvenile would automatically be granted permanent resident status or would be required to comply for adjustment of status. Several commenters indicated that, since Congressional intent was to allow special immigrant juveniles to become permanent residents, the Service should revise the rule to allow adjustment regardless of whether the applicants were ineligible for adjustment under existing statutes.

The Act generally requires a person intending to live permanently in the United States to enter the country with an immigrant visa, which may be issued only by a United States embassy or consulate abroad. Section 245 of the Act allows certain aliens in the United States to adjust status to that of a lawful permanent resident, without departing the United States or obtaining an immigrant visa from a consultate or embassy. Neither IMMACT 90 nor the Technical Amendments contain any indication that Congress envisioned a unique application process for special immigrant juveniles wishing to become lawful permanent residents of the United States. Therefore, special immigrant juveniles will continue to be required to apply for either immigrant visa issuance abroad or adjustment of status in the United States.

Although the Service is responsible for interpreting the Act and implementing provisions of the Act through regulation, the Service cannot implement rules which are contradictory to statutory requirements imposed by Congress. As indicated in the supplementary information to the interim rule, the original language of IMMACT 90 did not waive any of the adjustment of status eligibility requirements for special immigrant juveniles. The Service, therefore, initially lacked authority to accede to

commenters' requests to waive certain adjustment of status requirements. However, on December 12, 1991, the Technical Amendments became effective. Section 302(d)(2) of the Technical Amendments exempts special immigrant juveniles from compliance with several of the usual statutory requirements for adjustment of status.

Section 245(a) of the Act generally requires that applicants for adjustment of status establish that they have been inspected and admitted or paroled into the United States. Section 302(d)(2) of the Technical Amendments provides that, for the purpose of applying for adjustment of status as a special immigrant juvenille under section 101(a)(27)(J) of the Act only, these juveniles will be treated as if they had been paroled into the United States.

Section 245(c) of the Act generally prohibits the Service from adjusting the status of an alien who is not in lawful nonimmigrant status, who has failed to maintain lawful nonimmigrant status in the past, or who has been employed without authorization in the United States. Section 302(d)(2) of the Technical Amendments exempts special immigrant juveniles from compliance with these provisions of section 245(c) of the Act.

The final rule includes technical revisions to the regulations governing adjustment of status. These revisions ensure that the regulations reflect the statutory exemptions provided for special immigrant juveniles by section 302(d)(2) of the Technical Amendments.

Exclusion Grounds

Two commenters took exception to the statement contained in the supplementary information to the interim rule concerning the possibility that special immigrant juveniles who seek an immigrant visa or adjustment of status could have difficulty establishing that they are not likely to become public charges.

All applicants for immigrant visa issuance or adjustment of status under section 245 of the Act must establish that they are not excludable from the United States, unless the grounds of excludability have been waived. Persons seeking immigrant visa issuance abroad or adjustment of status in the United States are normally required to show that they are not excludable from the United States under the exclusion grounds enumerated in section 212(a) of the Act. These grounds include prohibitions against the admission of aliens who are likely to become public charges in the United States, who seek to enter the United States for the purpose of performing labor without a certification issued by the Department of Labor showing that there are not sufficient workers in the alien's field at the intended job location, or who entered the United States without proper documentation. Therefore, the Service initially lacked the authority to grant lawful permanent resident status to special immigrant juveniles who were likely to become public charges or were otherwise excludable from the United States.

Section 302(d)(2) of the Technical Amendments provides that the exclusion provisions under sections 212(a)(4), (5)(A), and (7)(A) of the Act will not apply to a qualified special immigrant under section 101(a)(27)(J) of the Act, thus automatically waiving excludability because of likelihood of becoming a public charge, failure to obtain a labor certification, and entry without proper documents. No application or fee is required for an automatic waiver.

Section 302(d)(2) also allows most other exclusion provisions to be waived for individual special immigrant juveniles for humanitarian purposes, family unity, or when it is otherwise in the public interest; however, the relationship between the alien and the alien's natural parents or prior adoptive parents shall not be considered a factor in a discretionary waiver determination. A waiver application must be filed and the appropriate fee paid for an individual waiver. The only exclusion provisions which may not be waived are those involving certain criminal and related grounds, and certain security and related grounds. The grounds which may not be waived are set forth in sections 212(a)(2)(A), (2)(B), (2)(C) (except for so much of such paragraph as related to a single offense of simple possession of 30 grams or less of marijuana), (3)(A), (3)(B), (3)(C), and (3)(E) of the Act.

The final rule includes technical revisions to the regulations governing adjustment of status to ensure that these regulations reflect the statutory exemptions provided by section 302(d)(2) of the Technical Amendments, including the automatic exemptions.

In accordance with 5 U.S.C. 605(b), the Commissioner of the Immigration and Naturalization Service certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This rule is not a major rule within the meaning of section 1(b) of E.O. 12291, nor does this rule have Federalism implications warranting the preparation of a Federalism Assessment in accordance with E.O. 12612.

The information collection requirement contained in this regulation has been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act. The OMB control number for this collection is contained in 8 CFR 299.5, Display of Control Numbers.

List of Subjects

8 CFR Part 101

Aliens, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 103

Administrative practice and procedures, Archives and records, Authority delegation (Government agencies), Fees, Forms.

8 CFR Part 204

Administrative practice and procedures, Aliens, Employment, Immigration, Petitions.

8 CFR Part 205

Administrative practice and procedures, Aliens, Immigration, Petitions.

8 CFR Part 245

Aliens, Immigration, Reporting and recordkeeping requirements.

Accordingly, the interim rule amending 8 CFR parts 101 and 103, which was published in the **Federal Register** at 56 FR 23207–23209 on May 21, 1991, is adopted as a final rule with the following changes:

PART 101—PRESUMPTION OF UNLAWFUL ADMISSION

1. The authority citation for part 101 continues to read as follows:

Authority: 8 U.S.C. 1103, 8 CFR part 2.

§ 101.6 [Redesignated as § 204.11.]

2. Section 101.6 is redesignated as § 204.11.

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

3. The authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 552, 552(a); 8 U.S.C. 1101, 1103, 1201, 1252 note, 1252b, 1304, 1356; 31 U.S.C. 9701; E.O. 12356, 47 FR 14874, 15557, 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

4. In § 103.1, paragraph (f)(2)(xxxv) is revised to read as follows:

§ 103.1 Delegations of authority.

* * * * *

(f) * * *

(2) * * *

(xxxv) Petitions for special immigrant juveniles under part 204 of this chapter;

* * * * *

PART 204—IMMIGRANT PETITIONS

5. The authority citation for part 204 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1151, 1153, 1154, 1182, 1186a, 1255; 8 CFR part 2.

6. Newly redesignated § 204.11 is revised to read as follows:

§ 204.11 Special immigrant status for certain aliens declared dependent on a juvenile court (special immigrant juvenile).

(a) *Definitions.*

Eligible for long-term foster care means that a determination has been made by the juvenile court that family reunification is no longer a viable option. A child who is eligible for long-term foster care will normally be expected to remain in foster care until reaching the age of majority, unless the child is adopted or placed in a guardianship situation. For the purposes of establishing and maintaining eligibility for classification as a special immigrant juvenile, a child who has been adopted or placed in guardianship situation after having been found dependent upon a juvenile court in the United States will continue to be considered to be eligible for long-term foster care.

Juvenile court means a court located in the United States having jurisdiction under State law to make judicial determinations about the custody and care of juveniles.

(b) *Petition for special immigrant juvenile.* An alien may not be classified as a special immigrant juvenile unless the alien is the beneficiary of an approved petition to classify an alien as a special immigrant under section 101(a)(27) of the Act. The petition must be filed on Form I–360, Petition for Amerasian, Widow(er) or Special Immigrant.

(1) *Who may file.* The alien, or any person acting on the alien's behalf, may file the petition for special immigrant juvenile status. The person filing the petition is not required to be a citizen or lawful permanent resident of the United States.

(2) *Where to file.* The petition must be filed at the district office of the Immigration and Naturalization Service having jurisdiction over the alien's place of residence in the United States.

(c) *Eligibility.* An alien is eligible for classification as a special immigrant under section 101(a)(27)(J) of the Act if the alien:

(1) Is under twenty-one years of age;

(2) Is unmarried;

(3) Has been declared dependent upon a juvenile court located in the United States in accordance with state law governing such declarations of dependency, while the alien was in the United States and under the jurisdiction of the court;

(4) Has been deemed eligible by the juvenile court for long-term foster care;

(5) Continues to be dependent upon the juvenile court and eligible for long-term foster care, such declaration, dependency or eligibility not having been vacated, terminated, or otherwise ended; and

(6) Has been the subject of judicial proceedings or administrative proceedings authorized or recognized by the juvenile court in which it has been determined that it would not be in the alien's best interest to be returned to the country of nationality or last habitual residence of the beneficiary or his or her parent or parents; or

(7) On November 29, 1990, met all the eligibility requirements for special immigrant juvenile status in paragraphs (c)(1) through (c)(6) of this section, and for whom a petition for classification as a special immigrant juvenile is filed on Form I–360 before June 1, 1994.

(d) *Initial documents which must be submitted in support of the petition.* (1) Documentary evidence of the alien's age, in the form of a birth certificate, passport, official foreign identity document issued by a foreign government, such as a Cartilla or a Cedula, or other document which in the discretion of the director establishes the beneficiary's age; and

(2) One or more documents which include:

(i) A juvenile court order, issued by a court of competent jurisdiction located in the United States, showing that the court has found the beneficiary to be dependent upon that court;

(ii) A juvenile court order, issued by a court of competent jurisdiction located in the United States, showing that the court has found the beneficiary eligible for long-term foster care; and

(iii) Evidence of a determination made in judicial or administrative proceedings by a court or agency recognized by the juvenile court and authorized by law to make such decisions, that it would not be in the beneficiary's best interest to be returned to the country of nationality or last habitual residence of the beneficiary or of his or her parent or parents.

(e) *Decision.* The petitioner will be notified of the director's decision, and, if the petition is denied, of the reasons for the denial. If the petition is denied, the petitioner will also be notified of the petitioner's right to appeal the decision to the Associate Commissioner, Examinations, in accordance with part 103 of this chapter.

PART 205—REVOCATION OF APPROVAL OF PETITIONS

7. The authority citation for part 205 is revised to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1151, 1153, 1154, 1155, 1182, and 1186a.

§ 205.1 [Amended]

8. In § 205.1, the introductory text is amended by adding the term "before October 1, 1991, or section 203(g) of the Act on or after October 1, 1991," immediately after the term "section 203(e) of the Act".

§ 205.1 [Amended]

9. In § 205.1, paragraphs (a)(5), (a)(6), (a)(7), (b)(5), and (b)(6) are amended by revising the reference to "section 203(a)(4)" to "section 203(a)(3)" whenever it appears in these paragraphs.

§ 205.1 [Amended]

10. In § 205.1, paragraph (a)(10) is removed.

§ 205.1 [Amended]

11. In § 205.1, paragraphs (b)(5) and (b)(6) are amended by revising the reference the "section 204(g)" to "section 204(f)" whenever it appears in these paragraphs.

§ 205.1 [Amended]

12. Section 205.1 is amended by:

a. Revising the reference in the heading in paragraph (c) to *"section 203(a)(3) or (6)."* to read *"section 203(b)."*;

b. Revising the reference in paragraph (c)(3) to "third preference" to read "employment-based preference";

c. Removing paragraph (c)(4) and redesignating paragraph (c)(5) as paragraph (c)(4); and

d. Revising the reference in the newly redesignated paragraph (c)(4) to "a sixth preference case." to read "an employment-based preference case under section 203(b)(1)(B), 203(b)(1)(C), 203(b)(2), or 203(b)(3) of the Act.".

13. In § 205.1, paragraph (d) is redesignated as paragraph (e), and a new paragraph (d) is added to read as follows:

§ 205.1 Automatic revocation.

* * * * *

(d) *Special immigrant juvenile petitions.* Unless the beneficiary met all of the eligibility requirements as of November 29, 1990, and the petition requirements as of November 29, 1990,

and the petition for classification as a special immigrant juvenile was filed before June 1, 1994, or unless the change in circumstances resulted from the beneficiary's adoption or placement in a guardianship situation:

(1) Upon the beneficiary reaching the age of twenty-one;

(2) Upon the marriage of the beneficiary;

(3) Upon the termination of the beneficiary's dependency upon the juvenile court;

(4) Upon the termination of the beneficiary's eligibility for long-term foster care; or

(5) Upon the determination in administrative or judicial proceedings that it is in the beneficiary's best interest to be returned to the country of nationality or last habitual residence of the beneficiary or of his or her parent or parents.

* * * * *

§ 205.2 [Amended]

14. In § 205.2, paragraph (a) is amended by revising the reference to "§ 204.1" to "§ 205.1".

§ 205.2 [Amended]

15. In § 205.2, paragraph (b) is amended in the fourth sentence by revising the reference to "section 204(g)" to "section 204(f)". Paragraph (b) is further amended in the fourth sentence by revising the reference to "section 203(a)(1), (2), (4), or (5)" to "section 203(a)(1), (2), (3), or (4)".

§ 205.2 [Amended]

16. In § 205.2, paragraph (b) is amended in the fifth sentence by revising the reference to "section 203(a)(3) or (6)" to "section 203(b)".

PART 245—ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE

17. The authority citation for part 245 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1255, and 8 CFR part 2.

§ 245.1 [Amended]

18. In § 245.1, paragraph (a) is amended by adding at the end a new sentence to read as follows: "A special immigrant described under section 101(a)(27)(J) of the Act shall be deemed, for the purpose of applying the adjustment to status provisions of section 245(a) of the Act, to have been paroled into the United States, regardless of the actual method of entry into the United States."

§ 245.1 [Amended]

19. Section 245.1 is amended by:

a. Revising the reference in paragraph (b)(4)(ii) to "section 101(a)(27)(H)" to "section 101(a)(27)(H) or (J)";

b. Revising the reference in paragraph (b)(5) to "section 101(a)(27)(H) or (I)" to "section 101(a)(27)(H), (I), or (J)";

c. Revising the reference in paragraph (b)(6) to "section 101(a)(27)(H) or (I)" to "section 101(a)(27)(H), (I), or (J)";

§ 245.1 [Amended]

20. In § 245.1, a new paragraph (d)(3) is added to read as follows:

§ 245.1 Eligibility.

* * * * *

(d) * * *

(3) *Special immigrant juveniles.* Any alien qualified for special immigrant classification under section 101(a)(27)(J) of the Act shall be deemed, for the purpose of section 245(a) of the Act, to have been paroled into the United States, regardless of the alien's actual method of entry into the United States. Neither the provisions of section 245(c)(2) nor the exclusion provisions of sections 212(a)(4), (5)(A), or (7)(A) of the Act shall apply to a qualified special immigrant under section 101(a)(27)(J) of the Act. The exclusion provisions of sections 212(a)(2)(A), (2)(B), (2)(C) (except for so much of such paragraph as related to a single offense of simple possession of 30 grams or less of marijuana), (3)(A), (3)(B), (3)(C), or (3)(E) of the Act may not be waived. Any other exclusion provision may be waived on an individual basis for humanitarian purposes, family unity, or when it is otherwise in the public interest; however, the relationship between the alien and the alien's natural parents or prior adoptive parents shall not be considered a factor in a discretionary waiver determination.

* * * * *

Dated: June 22, 1993.

Chris Sale,

Acting Commissioner, Immigration and Naturalization Service.

[FR Doc. 93–19350 Filed 8–11–93; 8:45 am]

BILLING CODE 4410–10–M

NUCLEAR REGULATORY COMMISSION

10 CFR PART 140

RIN 3150–AE75

Adjustment of the Maximum Standard Deferred Premium

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to increase the maximum standard deferred premium, presently established at $63 million per reactor per accident (but not to exceed $10 million in any one year), to $75.5 million per reactor per accident (but not to exceed $10 million in any one year), in accordance with the aggregate percentage change of 19.9 percent in the Consumer Price Index (CPI) from August 1988 through March 1993.

EFFECTIVE DATE: August 20, 1993.

FOR FURTHER INFORMATION CONTACT: Ira Dinitz, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC. 20555, telephone (301) 504–1289.

SUPPLEMENTARY INFORMATION: Section 15 of Public Law 100–408, the Price-Anderson Amendments Act of 1988 ("the Act") enacted on August 20, 1988, requires the Commission to adjust the maximum standard deferred premium (presently $63 million) for inflation. Section 15 added a new Section 170t. to the Atomic Energy Act of 1954, as amended ("AEAct"). Section 170t. provides as follows:

t. INFLATION ADJUSTMENT.—(1) The Commission shall adjust the amount of the maximum standard deferred premium under subsection b.(1) (Section 170b.(1) of the AEAct) not less than once during each 5-year period following the date of the enactment of the Price-Anderson Amendments Act of 1988 in accordance with the aggregate percentage change in the Consumer Price Index since—

(A) such date of enactment, in the case of the first adjustment under this subsection; or

(B) the previous adjustment under this subsection. (2) For purposes of this subsection, the term "Consumer Price Index" means the Consumer Price Index for all urban consumers published by the Secretary of Labor.

The inflation adjustment required by Section 170t.(1)(A) of the AEAct must be in accordance with the aggregate percentage change (since August 1988) in the Consumer Price Index (CPI) for all urban consumers published by the Secretary of Labor. The aggregate percentage increase in the CPI from August 1988 through March 1993 is 19.9 percent. This number is derived by dividing the September 1988 CPI index by the March 1993 CPI index. The new maximum standard deferred premium, computed by multiplying $63 million by 0.199 and adding the product to $63 million, will be $75.5 million. Therefore, as of August 20, 1993, 10 CFR 140.11(a)(4) will require that large nuclear power plant licensees maintain, in addition to $200 million in primary financial protection, a new maximum standard deferred premium of $75.5 million per reactor per accident (but not to exceed $10 million in any one year).

The next inflation adjustment in the amount of the standard deferred premium will be made not later than August 20, 1998, and will be based on the incremental change in the CPI since March 1993.

Because this inflation adjustment by the Commission is essentially ministerial in nature (e.g., multiplying $63 million by the percentage increase in the CPI published by the Secretary of Labor and adding this amount to $63 million), the Commission finds that there is good cause for omitting notice and public procedure (in the form of a proposed rule) on this action as unnecessary. In view of the impending statutory deadline for implementing this change to its regulations, the Commission finds that there exists good cause for making the rule effective on August 20, 1993 (less than 30 days after publication of the final rule in the Federal Register).

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, approval number 3150–0039.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this final rule will not have a significant impact upon a substantial number of small entities. The rule will potentially affect licensees of approximately 116 nuclear power reactors. Nuclear power plant licensees do not fall within the definition of small businesses as defined in Section 3 of the Small Business Act (15 U.S.C. 632), the Small Business Size Standards of the Small Business Administration (13 CFR part 121), or the Commission's Size Standards (50 FR 50241; December 9, 1985).

Backfit Analysis

The NRC has determined that this final rule does not impose a backfit as defined in 10 CFR 50.109(a)(1) because it is statutorily required. Therefore, a backfit analysis is not required for this rule.

List of Subjects in 10 CFR Part 140

Criminal penalty, Extraordinary nuclear occurrence, Insurance, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954 (as amended), the Energy Reorganization Act of 1974 (as amended), and 5 U.S.C. 552 and 553, the NRC is adopting the following amendment to 10 CFR part 140:

PART 140—FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

1. The authority citation for part 140 continues to read as follows:

Authority: Secs. 161, 170, 68 Stat. 948, 71 Stat. 576, as amended (42 U.S.C. 2201, 2210); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842).

2. Section 140.11(a)(4) is revised to read as follows:

§ 140.11 Amounts of financial protection for certain reactors.

(a) * * *

(4) In an amount equal to the sum of $200,000,000 and the amount available as secondary financial protection (in the form of private liability insurance available under an industry retrospective rating plan providing for deferred premium charges equal to the pro rata share of the aggregate public liability claims and costs, excluding costs payment of which is not authorized by § 170o.(1)(D), in excess of that covered by primary financial protection) for each nuclear reactor which is licensed to operate and which is designed for the production of electrical energy and has a rated capacity of 100,000 electrical kilowatts or more: Provided, however, that under such a plan for deferred premium charges for each nuclear reactor which is licensed to operate, no more than $75,500,000 with respect to any nuclear incident (plus any surcharge assessed under subsection 170o.(1)(E) of the Act) and no more than $10,000,000 per incident within one calendar year shall be charged.

* * * * *

Dated at Rockville, Maryland this 2nd day of August, 1993.

For the Nuclear Regulatory Commission.

James H. Sniezek,

Acting Executive Director for Operations.

[FR Doc. 93–19222 Filed 8–11–93; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 520 and 522

Animal Drugs, Feeds, and Related Products; Praziquantel Tablets and Injectable Solution

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of two supplemental new animal drug applications (NADA's) filed by Miles, Inc., Agriculture Division, Animal Health Products. The supplements provide for the use of 34 milligram (mg) DRONCIT® (Praziquantel) Canine Cestocide Tablet and 5.68 percent Injectable Cestocide for dogs and cats for removal and control of *Echinococcus multilocularis* in dogs.

EFFECTIVE DATE: August 12, 1993.

FOR FURTHER INFORMATION CONTACT: Marcia K. Larkins, Center for Veterinary Medicine (HFV–112), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8614.

SUPPLEMENTARY INFORMATION: Miles, Inc., Agriculture Division, Animal Health Products, P.O. Box 390, Shawnee Mission, KS 66201, filed two supplemental NADA's. NADA 111–607 provides for veterinary prescription use of Droncit® (Praziquantel) 5.68 percent Injectable Cestocide for dogs and cats. NADA 111–798 provides for veterinary prescription use of 34 mg Droncit® (Praziquantel) Canine Cestocide Tablet. The supplements provide for the removal and control of *Echinococcus multilocularis* in addition to use for removal of *Dipylidium caninum*, *Taenia pisiformis*, and *Echinococcus granulosus* in dogs. The supplemental NADA's are approved as of July 16, 1993. The regulations are amended in §§ 520.1870(c)(1)(i) and 522.1870(c)(1)(ii) to reflect the approvals. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of